IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.452 of 2005
ALONG WITH
CRIMINAL APPLICATION NO.453 OF 2005

Mr. Ahmed Hussain Siddiqui ...Applicant.

V/s

B4U Television Network (I)
Pvt. Ltd. & Anr. ...Respondents.

Mr. Jitendra G. Damani for the applicant.
Mr. Girish Kulkarni for respondent No.1.

CORAM: V.M.KANADE,J.

DATE: 23rd March, 2005

P.C.:

1. Heard the learned Counsel for the applicant.

2. In both these applications, applicant, who is the original accused, challenges the issuance of process by the Metropolitan Magistrate, 44th Court, Andheri, Mumbai in a complaint filed by respondent No.1 under section 138 of the Negotiable Instruments Act.

3. A complaint was filed by respondent No.1 against M/s Rafat Films who is accused No.1. The present petitioner is shown as accused No.2 and accused No.3 is Mr. Naushad A. Siddique. The Magistrate issued the process by order dated 16/10/2004.

4. It is submitted by the learned counsel appearing for the applicant that the applicant was neither concerned with the cheque which was dishonoured nor he was having any transaction with respondent No.1 Company. He submitted that the applicant had sent a notice to respondent No.1 informing them that he was neither proprietor of accused No.1 - M/s Rafat Films nor had issued any cheque. He submitted that the Magistrate has issued process mechanically without application of mind. He has submitted that the applicant is not the proprietor of M/s Rafat Films and the entire allegations made in the complaint were based on false statement made by the complainant.

5. The submissions made by the learned Counsel for the applicant cannot be accepted. All the questions raised by the applicant in these applications can only be decided after the evidence is led by both the parties and only thereafter finding can be given by the Metropolitan Magistrate. I have perused the complaint. In para 2 of the complaint, it is specifically stated that the present applicant had signed the cheque. In para 2, it is further stated that the accused No.2 had represented and informed the complainant that the said cheque would be honoured when presented and that they had sufficient funds to

cover the amount of the said cheque. All these allegations which are refuted by the applicant are disputed questions of fact which can be decided at the time of trial. Thus, there is no reason to interfere with the order of issuance of process while exercising inherent powers of this Court under section 482 of the Criminal Procedure Code. All the questions are kept open. Trial Court to decide the case within six months.

6. Accordingly, both the Criminal Applications are dismissed.

V.M. KANADE, J.